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In re Application of  
DELVES et al.

Application No.: 10/535,379

DECISION ON

PCT No.: PCT/GB03/04695

PETITION UNDER

Int. Filing Date: 03 November 2003

37 CFR 1.137(a)

Priority Date: 05 November 2002

Attorney Docket No.: DPS-030805 PET-1011US  
For: APPARATUS FOR TRANSFERRING  
SETTLED OR SUSPENDED SOLIDS FROM AN  
OPEN VESSEL INTO A CLOSED VESSEL

This decision is in response to applicants' submission filed 19 May 2005.

**BACKGROUND**

On 03 November 2003, applicants filed international application PCT/GB03/04695 which designated the U.S. and claimed a priority date of 05 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 May 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 May 2005.

On 19 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee and a petition under 37 CFR 1.137(a) to revive the application.

**DISCUSSION**

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be filed promptly after applicant becomes aware of the abandonment, and such petition must be accompanied by: (1) A proper response, unless already filed; (2) The petition fee as set forth in 37 CFR 1.17(l); (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) A terminal disclaimer (if necessary).

Applicants have satisfied items (1)-(3) above; item (4) is not applicable.

Applicants also request that the petition fee be refunded. However, refunds may be granted only for any fee paid by mistake or in excess of that required. 37 CFR 1.26. Here, the petition fee is required and is not in excess.

**CONCLUSION**

The petition under 37 CFR 1.137(a) is **GRANTED** for the reasons set forth above.

The request for refund is **REFUSED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a **NOTIFICATION OF MISSING REQUIREMENTS** (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b).



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